

APPLICANTS:
Lester Leung and
Elizabeth Chambers Leung

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

REQUEST: A variance to allow a barn
for 2 horses located less than 100 feet from
a residential lot line

HEARING DATE: April 28, 2004

Case No. 5410

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Lester Leung and Elizabeth Chambers Leung

LOCATION: 2712 Johnson Mill Road/Preserves at Colvard Manor, Forest Hill
Tax Map: 33 / Grid: 3E / Parcel: 0438 / Lot: Remaining Lands
Third Election District

ZONING: RR / Rural Residential

REQUEST: A variance pursuant to Section 267-26D(7) of the Harford County Code
to allow a barn for two or more horses to be less than 100 feet from a
residential lot line (50 feet proposed) in a Rural Residential District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicants testified Elizabeth Leung. Mrs. Leung is seeking permission to allow a barn for two or more horses to be located less than 100 feet from their residential lot line. The proposed barn will be 50 feet from their lot line. Mrs. Leung described the subject property as approximately 16 acres in size, and improved by a single family home, with no other buildings on site. She does not run a business from the property, but merely would like to construct a barn for her horses.

Mrs. Leung feels that the property is very unique. A small stream runs across the property which limits access, and which eliminates a large part of the property from being a potential building site. Much of the rest of the property, including that part of the property on which the proposed barn would be located, is wetlands. As a result, according to Mrs. Leung, there is only a very small building area remaining for the proposed barn. The barn can be constructed, as requested, with a minimum of earth movement and soil disturbance.

Mrs. Leung feels that there will be no adverse impact to any adjoining residence or property. The location of the proposed barn would be adjacent to farm fields. The barn would be similar to others in rural residential areas, would not be out of place, and would be in keeping with the rural agricultural nature of the area.

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Mrs. Leung offered a plat plan for Colvard Manor, which graphically shows the location of the stream, the natural resource districts on site, location of well and other limiting characteristics of the property.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune expressed the findings of the Department that the property is unique, due to the substantial portion of the property which is designated as a natural resource district due to existing streams and wetlands. As a result, the available area in which to build the proposed barn is severely limited.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The plat plan of Colvard Manor, accepted as Applicants' Exhibit 1, very convincingly demonstrates the unique nature of the property. Much of the property is impacted by an existing stream which runs in an east west direction, completely bisecting the property. The existence of a stream obviously inhibits, and makes highly impracticable, the construction of a barn to the side of the stream which would require its crossing.

The property to the north of the stream, on which the residence is located, is also severely impacted by the existence of a well with resulting setbacks, significant non-tidal wetlands with required 75 foot buffers, and a rolling type terrain.

The proposed location of the barn is in one of the very few areas on the property in which such a barn could be located. There appears to be no adverse impact from a relaxation of the 100 foot setback requirement.

If forced to comply with the 100 foot setback, the Applicants would suffer a practical difficulty or hardship as a result of the application of the Code. They would be required to place the structure in a virtually inaccessible or wet location. A 50 foot variance would appear to be the minimum necessary in order to grant the relief requested.

CONCLUSION:

For the above reasons, it is accordingly recommended that the requested variance be granted.

Date: May 21, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner